

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

LUCILLE ANNE CHAMPION,)	CASE NO. 8:05CV204
)	
Plaintiff,)	
)	
v.)	MEMORANDUM
)	AND ORDER
UNIVERSITY OF NEBRASKA)	
MEDICAL CENTER, ET AL,)	
)	
Defendants.)	

The plaintiff has filed a motion to reopen and clarify filing fee discrepancies, Filing No. 31.

The plaintiff's case was originally filed on May 4, 2005. The plaintiff presented a check to the court in the amount of \$250.00 in payment of the filing fee. The filing fee check was returned for insufficient funds. By order dated May 26, 2005, the case was stayed and the plaintiff given until July 19, 2005 to: (a) pay a \$45 service charge for the returned check, and (b) either pay the court's \$250 filing fee or file an Application to Proceed in Forma Pauperis ("IFP"). The plaintiff did pay the \$45.00 service charge as of July 5, 2005, but the receipt of this payment was not entered on the court's docket. On July 14, 2005, the plaintiff filed a motion for leave to proceed in forma pauperis. See Filing No. 26.

On September 22, 2005, the court entered a judgment of dismissal without prejudice. Filing No. 29. The court's accompanying order explained:

[T]he court gave the plaintiff until July 19, 2005 to pay a service charge of \$45 for her returned filing-fee check and either pay the court's \$250 filing fee or file an Application to Proceed in Forma Pauperis. In filing no. 24, the court emphasized that in the absence of timely compliance with both requirements, this litigation would be subject to dismissal.

The plaintiff has not paid the \$45 service charge for her returned check. Accordingly, the stay previously imposed in this litigation is lifted, and pursuant to NECivR 41.11, the plaintiff's complaint, as amended, and the above-entitled action are dismissed without prejudice.

Filing No. 28.

Since the court had, in fact, received payment of the \$45.00 service charge before the July 19, 2005 deadline, the basis of the court's decision to dismiss this case was

erroneous. That error arose due to a clerical mistake or oversight in the court's records. Therefore, pursuant to Rule 60(a) of the Federal Rules of Civil Procedure, the plaintiff's motion to reopen, Filing No. 31, will be granted.

However, the \$250.00 filing fee remains unpaid, and this case was dismissed before the court ruled on the plaintiff's prior application to proceed in forma pauperis. That application was filed on July 14, 2005. It has been two years since the plaintiff last filed her IFP application, and the plaintiff's financial circumstances may have changed, or she may now wish to pay the \$250 filing fee rather than proceed in forma pauperis.

Therefore, the plaintiff will be given until August 31, 2007, to either pay the court's \$250 filing fee or file a new Application to Proceed in Forma Pauperis ("IFP"). If the plaintiff fails to pay the filing fee or file a new IFP application by August 31, 2007, this case will be subject to dismissal without further notice.

THEREFORE, IT IS ORDERED:

1. The plaintiff's motion to reopen and clarify filing fee discrepancies, Filing No. 31, is granted. The court's order of dismissal, Filing No. 28, and its Judgment of dismissal without prejudice, Filing No. 29, are withdrawn;
2. By August 31, 2007, the plaintiff shall either pay the court's \$250 filing fee or file a new Application to Proceed in Forma Pauperis ("IFP"). If the plaintiff fails to comply with this Order, the above-entitled case may be subject to dismissal by District Judge Laurie Smith Camp after August 31, 2007 without further notice;
3. This case is stayed until further order of the court;
4. The Clerk of Court shall send the plaintiff a form Application to Proceed IFP and a copy of this Order;
5. The Clerk of the court is directed to reopen this case. The Clerk of the court is further directed to set a pro se case management deadline in this case using the following text: August 31, 2007: deadline for payment of filing fee or filing of IFP application.

Dated this 13th day of August, 2007.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge